O/Pharmacy

1951

File No. 51

Legal Department

A **BRANCH**

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Legal Department.

The point raised for the consideration of the R.L.A. is whether the fees ~~x~~ received along with applications for registration under the Pharmacy Act, 1948 should be refunded to the persons whose applications have been rejected by the Tribunal.

2. The Pharmacy Registration Tribunal is of the opinion that in the case of rejected applications fees should not be refunded as the time and labour required to decide such applications is the same as that required in cases where applications have been accepted. Moreover in view of the provisions of section 30(2) and (6) of the Indian Pharmacy Act, 1948, the fees received with applications are not registration fees pure and simple, but are "application fees for registration".

3. Sub-section (2) and (3) of section 30 of the Act are ~~xx~~ as follows :-

"(2) The Provincial Government shall, by the same or a like notification, appoint a date on or before which applications for registration, which shall be accompanied by the prescribed fee, shall be made to the Registration Tribunal.

(3) The Registration Tribunal shall examine every application received on or before the appointed date, and if it is satisfied that the applicant is qualified for registration under section 31, shall direct the entry of the name of the applicant on the register. "

It is clear from these provisions that the fee, which accompanies the application is in the nature of registration fee-i.e. the fee entitling the applicant to have his name registered, referred to in sub-section- (1) of section 30. For sub-section (3) of section 30 says that if the applicant is qualified to be registered, the Tribunal shall bring his name on the register. It does not provide for any other ~~x~~ fee being

recovered for registration apart from the fee already paid by the applicant with the application . Though the fee so paid with the application is intended as a registration fee, the Act makes no provision for the refund of it in case the applicant is refused registration by the Tribunal. That however appears to be advisedly so and in accordance with the intention of the framers of the Act. For sub-section (6) of section 30 provides inter alia for all the application fees * being credited to the Provincial Council when constituted. The fee therefore need not be refunded to rejected applicants.

4. It is understood on informal inquiries from the Local Self Government and Public Health Department that no rules have been framed by the State Government under section 46 of the Act. In the absence of such rules, the recovery of fee which is required to be prescribed by the rules (vide section 2(g) is irregular. The position should be regularised.

Sd/ P.M.Lad
Additional Secretary to Government.

U.R. to L.S.G. & P.H.D. No. 14472, dated the 11th September 1951.

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